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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,028	01/26/2000	Charles S. Zuker	02307E- 092610	9361
20350	7590	11/14/2003	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			BUNNER, BRIDGET E	
			ART UNIT	PAPER NUMBER
			1647	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

1cc

Advisory Action

Application No.

09/492,028

Applicant(s)

ZUKER, CHARLES S.

Examiner

Bridget E. Bunner

Art Unit

1647

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,3,4 and 6-8.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejection of claims 1, 3-4, and 6-8 under 35 U.S.C. § 112, first paragraph, is withdrawn in part in view of Applicant's claim amendments that remove percent identity language from the claims.

Continuation of 5. does NOT place the application in condition for allowance because:

The objection to the specification regarding the issue of patent applications being referenced throughout the disclosure is maintained. Additionally, claims 1, 3-4, and 6-8 are rejected under 35 U.S.C. § 112, first paragraph (enablement). The basis for this rejection is set forth at pg 4-6 of the previous Office Action (01 October 2003). Applicant asserts that the claims have been amended to recite that the claimed polypeptide comprises a sequence of SEQ ID NO: 2 only. Applicant's arguments have been fully considered but are not found to be persuasive. Specifically, there is still one issue of the enablement rejection that has not been completely addressed by Applicant's current claim amendments. The specification of the instant application outlines a prophetic procedure for screening a compound that modulates signal transduction in taste cells. However, this is not adequate guidance, but is merely an invitation to the artisan to use the current invention as a starting point for further experimentation. The specification does not disclose the identity of any substance capable of modulating signal transduction in taste cells via the claimed method. Since the specification provides no guidance regarding what sort of compounds should be screened for the desired activity, the skilled artisan must resort to trial and error experimentation to determine which class of compounds might yield one with the desired activity. Such trial and error experimentation is considered undue. Therefore, undue experimentation would be required of the skilled artisan to contact a cell which expresses the G-protein alpha subunit polypeptide of SEQ ID NO: 2 and a taste cell specific G protein coupled receptor with any type of compound. There is also little guidance in the specification or the claims indicating which taste cell specific G protein coupled receptor is expressed or whether the G-protein alpha subunit polypeptide and the taste cell specific G protein coupled receptor are endogenous to the taste cell or are transfected into the taste cell. The present invention is unpredictable and complex wherein one skilled in the art may not necessarily identify a compound that modulates signal transduction in taste cells. Although the claimed method utilizes routine screening techniques, the results of the method are unpredictable and complex when combined with the step of contacting a cell which expresses the taste cell specific G-protein alpha subunit polypeptide of SEQ ID NO: 2 and any taste cell specific G protein coupled receptor with any compound.

It is noted that Applicant is encouraged to submit any pre- or post-filing date references or evidence in the form of a declaration under 37 C.F.R. 1.132 to support the specification.


GARY KUNZ
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TECHNOLOGY CENTER 1600